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IN THE HIGH COURT OF JUDICATURE AT JABALPUR, M.P.

WRIT PETITION NO. 5488 OF 2000.

PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA.

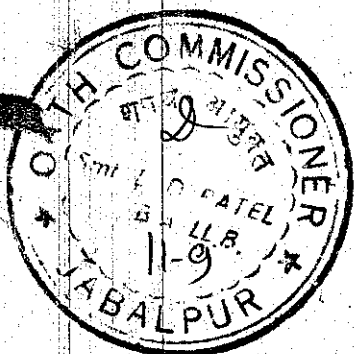
PETITIONER

.. AJIT RAM SAHU, S/o Dwarika Prasad Sahu, Panchayat - Karmi, of Gram Panchayat Khapri, Janpad Panchayat Dondi Lohara, Tehsil Dondi Lohara, District DURG, M.P.

VERSUS

RESPONDENTS

- .. 1. Sarpanch of the Gram Panchayat Khapri, Block-Dondi lohara, District DURG, M.P.
2. Sub Divisional Officer, of Dondi Lohara, Tehsil Dondilohara, District Durg, M.P.
3. Deputy Director of Panchayat and Samaj Kalyan of District DURG, at DURG, M.P.
4. COLLECTOR of DURG, at DURG, M.P.
5. THE STATE OF M.P. Through Secretary, in the Department of Panchayat and Rural Development Vallabh Bhawan, BHOPAL, M.P.



1. Particulars of the petitioner.

As given in the cause title above.

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आदेश पत्रक

मामला क्रमांक W.P. 5488/2000 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<u>14.3.2001</u> : Mr. Ashok Das Vaishnav for the petitioner. Mr. B.N.Pandey for respondent no.1 Dr.N.K.Shukla learned Dy.AG with Gautam Bhaduri for respondents 4 and 5. Mr.Pandey prays for time to obtain instructions from his client. Learned counsel for the petitioner submits that on the basis of the documents available on record and in view of the statement made at the bar by the counsel representing the State, this petition can be disposed of in as much as the impugned order is obviously unsustainable as the said order was issued under the directions of the S.D.O. which is contrary to rule 7 of the Panchayat Karmi Yojna, 1995. An English version furnished to the court by the petitioner of rule 7 reads as under :- " The Gram Panchayat shall have administrative control over the Panchayat Karmi. The power to take disciplinary action against the Panchayat Karmi, for neglect or non compliance of his duties or for irregularities etc. is vested in the Gram Panchayat. He can be removed from the post by the General Body of the Gram Panchayat after giving him a show-cause notice and after considering the reply, if any, given by the Panchayat Karmi." The impugned order dated 4.9.2000 issued by Sarpanch	

आदेश पत्रक (पुर्वानुबद्ध)

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	Gram Panchayat ,Dondi Lohra,reads as under :- " The Sub Divisional Officer (Revenue) Dondi Lohra by his letter No. 766 dated 18.8.2000, ordered to remove Shri Ajit Ram Sahu, the Panchayat Karmi of Gram Panchayat Khapri,for committing financial irregularities. In compliance with the aforesaid order and in accordance with Rule 7 of Gram Panchayat Karmi Yojna,contained in letter No. F-2/12/22/P-1/95 Bhopal dated 12.12.95 of M.P.Panchayat & Gramin Vikas Vibhag and according to the decision taken by the Gram Sabha in its meeting dated 14.4.2000 & 25.8.2000,Shri Ajit Ram Sahu Panchayat Karmi is removed from the post." Apparently the impugned order was issued under the directions of the S.D.O. Even assuming that meeting of Gram Panchayat was convened in order to carry-out the directions of the S.D.O. such action would not in my opinion be ~~unsustainable~~ sustainable in as much as it would not have been an independent Act of Gram Panchayat. In this view of the matter I am not inclined to grant time to Mr.Pandey. Mr.Pandey produced certain documents stating that ~~this document~~ ^{and} ~~testifies~~ that meeting was convened ^{and} in accordance with the provisions of rule 7 of the Panchayat Karmi Yojna the order of removal was issued. It appears that in view of the unambiguous order issued on 4.9.2000, I would not hesitate to hold even as I have stated above that even assuming that certain Gram Panchayat was held for the aforesaid purpose of removal,the action would not have ~~been~~ been free from interference. Even on this score,I am of the view that the impugned order must go. Despite Mr.Pandey's insis-	

आदेश पत्रक

सामान्य क्रमांक सन् 200
 ..2.. विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	tence that he be given further time, I am not inclined to grant. In the result the petition is allowed. The impugned order dated 4.9.2000, issued by Gram Panchayat Khapri is set-aside. Consequently the order dated 18.8.2000 passed by SDO Dondi Lohra is also set-aside. So also the order dated 28.8.2000 (P-2) is also set-aside. I make it clear that no other ^{mode} ~~matter~~ can be resorted to except the ^{mode} ~~matter~~ contemplated in rule 7 of the Yojna, 95. for the purpose of removal. If ^{action is called for} ~~so advised~~, competent authority should ^{take} ~~recourse~~ to the relevant provisions of law. C.c. today.	Sd/- Chief Justice

[पीछे देखिये]

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